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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/667,740

09/22/2003

Bret A. Bailey

BOC9-2003-0028 (397)

1890

40987 7590 05/30/2008  
AKERMAN SENTERFITT  
P. O. BOX 3188  
WEST PALM BEACH, FL 33402-3188

EXAMINER

TRAN, TUYETLIEN T

ART UNIT

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2179

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/667,740	<b>Applicant(s)</b> BAILEY ET AL.	
	<b>Examiner</b> TUYETLIEN T. TRAN	<b>Art Unit</b> 2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-15 and 17-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-15, and 17-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This action is responsive to the following communication: Amendment filed 2/28/08. **This action is made final.**
2. Claims 1, 2, 4-15, and 17-22 are pending in the case. Claims 1, 9, 14 and 22 are independent claims.

### Response to Amendment

3. The Declaration and Exhibits filed on 9/12/07 under 37 CFR 1.131 have been considered but is ineffective to overcome the applied reference Spiegel et al. (Pub No US 20030055863 A1, hereinafter Spiegel).

The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Spiegel reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). In Declaration under Declaration under 37 C.F.R. 1.131 filed 9/12/07, page 5 under Exhibit A, it appears that the applicants try to establish a conception of the invention prior to the effective date of the Spiegel reference. However, the applicants fail to provide enough evidence to support all the claimed limitations prior to the reference date; therefore do not support conception of the claimed invention. In addition, the written description provided in the Disclosure is not sufficient to one skill in the art, at the time the invention was made, to know "how to use" and "how to make" the claimed invention. For example, there is not enough evidence to support the limitations "accessing data contained within at least one configuration file containing TCP/IP settings for said computer", "displaying TCP/IP settings based upon said accessed data within said graphical user interface", "displaying help relating to configuring TCP/IP communication settings of said computer within said graphical user interface", "selection list", "checking a validity" as recited in claims 1, 5-8. The aforementioned limitations merely provides as examples of insufficient

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evidence supporting conception of the claimed invention. It is to be understood that there are other claimed limitations that are not sufficiently supported by the evidence provided by the declaration and the accompany exhibits.

In determining the sufficiency of a 37 CFR 1.131 affidavit or declaration, diligence needs not to be considered unless conception of the invention prior to the effective date is clearly established, since diligence comes into question only after prior conception is established. *Ex parte Kantor*, 177 USPQ 455 (Bd. App. 1958). However, in the interest of compact prosecution, the examiner notes that the evidence submitted is insufficient to establish diligence from a date prior to the effective date of the Spiegel reference (03/20/2003) to the US filing date of this application (09/22/2003) because of periods of lacking activity in the Exhibits B-D without any explanation such as periods of 2 months between 01/13/2003 and 03/26/2003; 5 months between 03/27/2003 and 09/05/2003.

#### **Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**5. Claims 1, 2, 5-9, 11-15, 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paxhia et. al. (Pub No. 2002/0052935 A1, hereinafter Paxhia) in view of Spiegel et al. (Pub No US 20030055863 A1, hereinafter Spiegel).**

**As to claim 1**, Paxhia teaches:

A method for configuring Transmission Control Protocol/Internet Protocol (TCP/IP) settings on a computer (e.g., see Fig. 13 and [0041], [0042], [0064], [0065]) comprising the steps of:

providing a graphical user interface for configuring the TCP/IP settings including at least one control (e.g., see Figs. 12, 13 and [0065]);

accessing data contained within at least one configuration file containing the TCP/IP settings for said computer (e.g., read current settings from the configuration file, see [0042], [0051]; note that current settings also includes TCP/IP settings as shown in Figs. 12, 13);

displaying the TCP/IP settings based upon said accessed data within said graphical user interface (e.g., build configuration pages filled in with the settings from the configuration file, see [0051] and Figs. 11-13); and

altering one or more of said TCP/IP settings within said at least one configuration file responsive to manipulation of said at least one control (e.g., read the values contained in the configuration pages and write those values out to the configuration file, see [0051] and Fig. 11, Fig. 12).

Paxhia further teaches the configuring TCP/IP settings for a computer having AS/400 architecture also known as iSeries (e.g., see Fig. 8, [0070]); however, Paxhia does not teach the configuring settings for a computer having only a non-graphical user interface for manually manipulating TCP/IP configuration files and integrating the graphical user interface with the non-graphical user interface.

Spiegel teaches a method and apparatus for managing a resource in an information handling system particularly for a computer having a z/architecture in which a user interface is provided for an operator to configure and manage the resource in the computer (e.g., see [0009], [0012], and [0030], [0031]). As admitted by the Applicant's specification, a z/architecture computer having only a non-graphical user interface for manually manipulating TCP/IP configuration files (e.g., see the Background

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disclosure in the instant specification). Therefore, Spiegel teaches the capability to integrate a graphical user interface for configuring and managing resources in the z/architecture computer having only a non-graphical user interface for manually manipulating TCP/IP configuration files; especially, Spiegel teaches integrating the graphical user interface with the non-graphical user interface (e.g., see [0029]-[0031]).

Paxhia and Spiegel are analogous art because they are from the same field of endeavor of providing an interface for configuration (e.g., see Spiegel [0030]) for IBM platform computers (iSeries and zSeries). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the internet connection configuration graphical user interface as taught by Paxhia to the configuration graphical user interface that can be applied to a zSeries server as taught by Spiegel to achieve the capability to graphically configure internet connection on a computer having only a non-graphical user interface for manually manipulating TCP/IP configuration files. The motivation to combine the teachings of Paxhia with Spiegel is to allow easy manipulation of parameters such as IP address, network address, as well as name server and because Paxhia suggests to the skilled artisan that a graphical user interface presents to a user a much more user-friendly interface than non-graphical user interface (e.g., see Paxhia [0005]).

**As to claim 14**, claim 14 reflects a computer-readable storage having stored thereon, a computer program having a plurality of code sections, said code sections executed by a computer for causing the computer to perform the steps as claimed in claim 1 (e.g., see [0018], [0065], and page 25 lines 7-11), and therefor is rejected along the same rationale.

**As to claim 22**, claim 22 reflects a system for implementing the steps as claimed in claim 1 (e.g., see [0018], [0065], and page 25 lines 7-11), and therefor is rejected along the same rationale.

**As to claim 9**, Paxhia teaches:

A computer-readable storage having stored thereon, a computer program having a plurality of code sections, said code sections executable by a computer for causing the computer to display a

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graphical user interface for a computer (e.g., see [0018], [0065], and page 25 lines 7-11) comprising, said user interface comprising:

a plurality of interface elements (e.g., see Figs. 11-13), wherein at least a portion of said interface elements display data derived from a flat file of said computer (e.g., see [0051]) that includes Transmission Control Protocol/Internet Protocol configuration settings for said computer (e.g., see [0065] and Figs. 11-13), and wherein selection of at least a portion of said interface elements alter one or more of said Transmission Control Protocol/Internet Protocol configuration settings within said flat file (e.g., read the values contained in the configuration pages and write those values out to the configuration file, see [0051] and Figs. 12-13).

Paxhia further teaches the configuring TCP/IP settings for a computer having AS/400 architecture also known as iSeries (e.g., see Fig. 8, [0070]); however, Paxhia does not teach the configuring settings for a computer having only a non-graphical user interface for manually manipulating TCP/IP configuration files and integrating the graphical user interface with the non-graphical user interface.

Speigel teaches a method and apparatus for managing a resource in an information handling system particularly for a computer having a z/architecture in which a user interface is provided for an operator to configure and manage the resource in the computer (e.g., see [0009], [0012], and [0030], [0031]). As admitted by the Applicant's specification, a z/architecture computer having only a non-graphical user interface for manually manipulating TCP/IP configuration files (e.g., see the Background disclosure in the instant specification). Therefore, Speigel teaches the capability to integrate a graphical user interface for configuring and managing resources in the z/architecture computer having only a non-graphical user interface for manually manipulating TCP/IP configuration files; especially, Speigel teaches integrating the graphical user interface with the non-graphical user interface (e.g., see [0029]-[0031]). Thus, combining Paxhia's teaching with Speigel's teaching would meet the claimed limitation for the same reasons as discussed with respect to claim 1.

**As to claims 2 and 15**, Speigel further teaches wherein said graphical user interface is configured for at least one of a 32-bit multiple virtual storage operating system and a 64-bit multiple virtual

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storage operating system (e.g., see [0031]). Thus, combining Paxhia's teaching with Spiegel's teaching would meet the claimed limitation for the same reasons as discussed with respect to claim 1.

**As to claims 5, 13, and 18**, Paxhia further teaches displaying help relating to configuring TCP/IP communication settings of said computer within said graphic user interface (e.g., see [0047], [0048], Figs. 11-13). Thus, combining Paxhia's teaching with Spiegel's teaching would meet the claimed limitation for the same reasons as discussed with respect to claim 1.

**As to claims 6 and 19**, Paxhia further teaches:

providing a selection list within said graphical user interface, said selection list including a multitude of user-selectable settings for at least one configuration parameter of said configuration file (e.g., see [0051] and Fig. 11); and

updating said configuration parameter responsive to a selection within said selection list (e.g., read the values contained in the configuration pages and write those values out to the configuration file, see [0051] and Fig. 13).

**As to claims 7 and 20**, Paxhia further teaches synchronizing multiple ones of said at least one configuration file using said graphical user interface (e.g., read current settings from the configuration file and build configuration pages filled in with those settings, see [0051] and Fig. 11).

**As to claims 8, 12, and 21**, Paxhia further teaches checking a validity of at least one parameter stored within said configuration file using said graphical user interface (e.g., see [0050]).

**As to claim 11**, Paxhia further teaches wherein at least a portion of said plurality of interface elements accept input (e.g., see Fig. 11 and Fig. 13), and wherein said input is restricted to prevent invalid configuration settings from being written to said flat file (e.g., configuration file validation program, see [0050]).

**6. Claims 4, 10, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paxhia in view of Spiegel further in view of Wilkerson et al (Patent No 5778387, hereinafter Wilkerson).**

**As to claims 4, 10, and 17**, Paxhia and Spiegel teach the limitation of claims 1, 9, and 14 for the same reasons as discussed with claims 1, 9, and 14 above. Paxhia and Spiegel fail to expressly teach integrating a graphical user interface with an interface component of an operating system of said computer.

Wilkerson teaches the capability of integrating a graphical user interface (e.g., the process operates under a system in which menus known as “panels” prompt the user for information and process selection, see col. 2 lines 32-45) integrating a graphical user interface with an interface component of an operating system of said computer (e.g., note that the interface can be run on ISPF, see col. 6 lines 45-55).

Paxhia, Spiegel, and Wilkerson are analogous art because they are from the same field of endeavor of providing an interface between an operator and the computer to allow data manipulation. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the integration of an application software with ISPF tool as taught by Wilkerson to the internet connection configuration graphical user interface as taught by Paxhia and modified by Spiegel to create an TCP/IP configuration graphical user interface integrated with an Interactive System Productivity Facility of a computer having a z/architecture. The motivation to combine the teachings of Paxhia modified by Spiegel with Wilkerson is to allow a person not technically skilled in the user of a computer can operate the new procedure (see e.g., Wilkerson col. 2 lines 32-35).

### **Response to Arguments**

7. Applicant's arguments filed 9/21/07 have been fully considered but they are not persuasive.

♦ In response to Applicant's request that the declaration under 37 CFR 1.131 be considered and that Spiegel prior art be acknowledged as a prior art reference under 35 USC 102(e) (e.g., see Applicant's remark pages 9, 10), the examiner directs the applicant to the facts that:

The 37 CFR 1.131 affidavit or declaration must establish possession of either the whole invention claimed or something falling within the claim (such as a species of a claimed genus), in the sense that the

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claim as a whole reads on it. *In re Tanczyn*, 347 F.2d 830, 146 USPQ 298 (CCPA 1965) (Where applicant claims an alloy comprising both nitrogen and molybdenum, an affidavit showing applicant made an alloy comprising nitrogen but not molybdenum is not sufficient under 37 CFR 1.131 to overcome a rejection under 35 U.S.C. 103 based on the combined teachings of one reference disclosing an alloy comprising nitrogen but not molybdenum and a second reference disclosing an alloy comprising molybdenum but not nitrogen);

While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897);

A general allegation that the invention was completed prior to the date of the reference is not sufficient. *Ex parte Saunders*, 1883 C.D. 23, 23 O.G. 1224 (Comm'r Pat. 1883). Similarly, a declaration by the inventor to the effect that his or her invention was conceived or reduced to practice prior to the reference date, without a statement of facts demonstrating the correctness of this conclusion, is insufficient to satisfy 37 CFR 1.131.

For at least these reasons and other reasons discussed in the section "Response to Amendment" above, the examiner maintains the position that the Declaration and Exhibits filed on 9/12/07 under 37 CFR 1.131 have been considered but is ineffective to overcome the applied reference Spiegel.

◆ In response to Applicant's argument that "the rejection under 35 USC 103(a) are moot because Spiegel, which only qualifies as prior art under 35 USC 102(e) and was commonly owned with the present invention" (e.g., see Applicant's remark page 10), the examiner respectfully submits that if the subject matter qualifies as prior art under 35 U.S.C 102(a) or (b), it cannot be disqualified as prior art under 35 U.S.C 103(c). In this case, the publication date of the cited prior art of Spiegel is 03/20/2003 which qualifies as 102(a) date with respect to Applicant's effective filing date is 09/23/2003.

◆ In response to Applicant's arguments that the cited prior art of Paxhia and Spiegel do not disclose the concept of integrating a GUI with an existing traditional non-graphical user interface that can only

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manually manipulate TCP/IP setting (e.g., see Applicant's remark page 11), the examiner respectfully disagree. Applicant's arguments fail to provide evidence or even a suggestion as to why the teaching of Alcorn does not meet the claimed limitations because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. The examiner further directs the Applicant to the fact that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, the combination of Paxhia and Spiegel teaches the limitation of integrating a GUI with an existing traditional non-graphical user interface that can only manually manipulate TCP/IP setting as rejected supra.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In *re Heck*, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting *In re Lemelson*, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TuyetLien (Lien) T. Tran whose telephone number is 571-270-1033. The examiner can normally be reached on Mon-Friday: 7:30 - 5:00 (every other Friday off).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 571-272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/TuyetLien T Tran/

Examiner, Art Unit 2179

/Weilun Lo/

Supervisory Patent Examiner, Art Unit 2179